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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. BASIL PETER HERBST, Defendant.	CR 07-103-BLG-JDS NOTICE OF INTENT TO USE EVIDENCE PURSUANT TO RULE 404(B)
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Comes now, Marcia Hurd, Assistant United States Attorney for the State and District of Montana and respectfully notifies the defendant of her intent to utilize at trial evidence of other crimes, wrongs or acts of defendant Basil Peter Herbst pursuant to Rule 404(b), Fed.R.Crim.P. The evidence is admissible to show motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident in the

case currently charged before the court. The evidence sought to be introduced is contained within the investigative file and has been and has been disclosed to the defendant. The evidence consists of additional images and videos as follows:

–a video of AB, (d/o/b –/–/91) engaged in sexually explicit conduct that was taken in the bathroom of an unknown hotel but believed to be in Williston, North Dakota, in approximately 2003 or 2004;

–a video of NC, aka NS, (d/o/b –/–/90) engaged in sexually explicit conduct that was taken in the bathroom of an unknown hotel but believed to be the C'Mon Inn, Billings, Montana, in approximately 2004-2005;

–a series of still digital photographs of K., (d/o/b –/–/96) engaged in sexually explicit conduct that was taken at an unknown hotel but believed to be the Quality Inn, Dickinson, North Dakota in approximately 2004.

DATED this 25th day of October, 2007.

WILLIAM W. MERCER
United States Attorney

/s/ Marcia Hurd
MARCIA HURD
Assistant U.S. Attorney
Attorney for Plaintiff